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Paper No. 9

SOL SHEINBEIN
G.E. EHRLICH (1995) LTD.
c/o ANTHONY CASTORINA
2001 JEFFERSON DAVIS HIGHWAY, SUITE 207
ARLINGTON VA 22202

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In re Application of
Zamir, et al.
Application No. 10/070,923
Filed: March 13, 2002
Attorney Docket No. 02/23531
For: POLYNUCLEOTIDES ENCODING
POLYPEPTIDES HAVING INVERTASE
ACTIVITY AND USE OF SAME

OFFICE OF PETITIONS
DECISION GRANTING
PETITION

This is a decision on the petition entitled, "PETITION TO ACCEPT DRAWING", filed November 15, 2002, requesting, in effect, partial withdrawal of the Notice to File Missing Parts of Nonprovisional Application (Notice) insofar as it alleges that Figure 1D described in the specification was omitted. The petition will be treated under 37 CFR 1.53(e).

The application was filed on March 13, 2002. On September 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia*, that Figure 1D described in the specification appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that Figure 1D be accorded a filing date of March 13, 2002 on the basis that 21 sheets of drawing figures, including Figure 1D, were received in the Patent and Trademark Office (PTO) on March 13, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp citing March 13, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 21 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 21 sheets of drawing figures were filed on March 13, 2002. MPEP 503. A review of the originally filed sheets of drawings reveals that only 20 sheets are present. The page missing corresponds to the page that would contain a "Figure 1D." Accordingly, the request is granted.

Pursuant to petitioners' authorization, the \$130.00 petition fee will be credited to deposit account no. 50-1407.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of March 13, 2002, using the 21 sheets of substitute drawing figures submitted with the instant petition. Office records will be corrected to show that 21 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions